

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Government,

vs.

ROD BLAGOJEVICH, ROBERT
BLAGOJEVICH, CHRISTOPHER KELLY,
WILLIAM F. CELLINI, SR.,
Defendants.

No. 08 CR 888

Chicago, Illinois

June 25, 2009

11:07 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. ZAGEL

For the Government:

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1 Appearances (continued:)

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1 (The following proceedings were had in open
2 court:)

3 THE CLERK: 08 CR 888, United States versus
4 Blagojevich, et al.

:07AM

5 MR. SCHAR: Good morning, Judge.

6 Reid Schar, Chris Niewoehner, Carrie Hamilton
7 on behalf of the United States.

8 MR. ETTINGER: Good morning, Your Honor.

:07AM

9 Judge Michael Ettinger on behalf of Rob
10 Blagojevich.

11 MR. MONICO: Good morning, Your Honor.

12 Michael Monico on behalf of Christopher
13 Kelly.

14 MR. GILLESPIE: Good morning, Your Honor.

:07AM

15 Terry Gillespie on behalf of Mr. Cellini.

16 MR. ADAM: Good morning, Your Honor.

17 Sam Adam on behalf of Rod Blagojevich.

18 MR. SOROSKY: Sheldon Sorosky, S-o-r-o-s-k-y,
19 on behalf of Rod Blagojevich.

:07AM

20 MR. STEIN: Giel Stein, G-i-e-l S-t-e-i-n, on
21 behalf of rod Blagojevich.

22 THE COURT: We are talking today, I think,
23 about trial dates.

24 MR. SCHAR: Yes, Judge.

:08AM

25 THE COURT: And I think I gave you a window

1 the last time, and the question is, have you
2 actually reached an agreement or at least narrowed
3 the disagreement?

4 MR. SOROSKY: Well, I would just say, if I
5 could butt in and go first, I think we would need
6 the end of that window or as long as possible.

7 If I could just say this, I think on a prior
8 court date the government informed the Court that
9 there were approximately a million documents. That
10 statement is correct. However, the way the
11 government calculated documents used by each
12 individual document and some documents are more than
13 one page, so there are approximately 3 and a half
14 million pages. So the government's position that
15 there are a million documents is not incorrect;
16 however, I naively just assumed that there were a
17 million pages. There are not a million pages, there
18 are 3 and a half million pages.

19 And on the last court date, Your Honor
20 graciously appointed Mr. Stein for 40 hours of work
21 and he's been a diamond, whatever stone is most
22 precious, at helping us. And the first thing we
23 would ask if the Court would permanently appoint
24 Mr. Stein to our defense team to fulfill the role of
25 organizer, I think that was the word Your Honor

1 used.

2 THE COURT: Anyone else want to address this
3 on the defense side?

4 MR. SOROSKY: I think I speak for everyone on
5 the defense side.

6 THE COURT: As soon as you said 3 million
7 pages, I think you were speaking for everyone.

8 MR. SCHAR: Judge, we will make ourselves
9 available for trial whenever Your Honor pleases.

10 MR. SOROSKY: Could I suggest holding off a
11 trial date or setting an exact date but we as
12 offense attorneys are well aware that Your Honor has
13 set the timetable of between April and June --

14 MR. SCHAR: That we would object to, Judge.
15 We would like a trial date to set some things in
16 stone and get moving.

17 MR. GILLESPIE: You said July?

18 THE COURT: I said April 1st to July 1st.

19 MR. SOROSKY: Oh, July 1st.

20 THE COURT: That's what I said.

21 (Brief pause.)

22 THE COURT: I am going to set a date and the
23 date I'm setting is June 3rd. There are a variety
24 of things that have to be done, some of them I don't
25 think we have to talk about because now that there's

1 a date people can do some organization and we're
2 going to have relatively frequent statuses, but I do
3 want various drafts of the jury questionnaire. It's
4 been done before, it's been done in cases that I've
5 had before. It's useful because it shortcuts the
6 amount of time we have to spend in oral dialogue
7 with the jurors, and for purposes of both the
8 prosecution and defense there's much more
9 information in those questionnaires than you would
10 get in an ordinary examination. And the last time I
11 used it, I had a fairly prominent defense lawyer
12 urge that it be done in all cases. It's just a
13 little too expensive for a 3-day jury trial, but it
14 just makes sense in the context of a long trial.

15 That date will necessitate in addition to
16 customary the Friday breaks, it will necessitate
17 perhaps some possibly longer days off because of the
18 Independence Day holiday, but maybe not. So I took
19 a look at the calendar and the 4th is on a Sunday,
20 the 5th will be the holiday, and we would be taking
21 off the 2nd, in any event, because it's a Friday.
22 So we may not actually be impacted much by
23 Independence Day. So basically that's that. My
24 preference would have been for May, but at least we
25 avoid Memorial Day in period of time, which I find,

1 for many, is more difficult.

2 Having said that, I'm granting the motion
3 with respect to Mr. Stein.

4 Is there anything else?

:13AM

5 MR. SCHAR: Judge, could we also prescreen
6 the panel for the length of trial?

:14AM

7 THE COURT: Yes, the questionnaire will tell
8 people, as we did in the Family Secrets case, that
9 this is going to be a trial of certain duration.
10 It's my practice to overstate the duration by 2 or
11 3 weeks. Then the jury office will look at them,
12 because there will be a bunch of people who will say
13 honestly they'd be happy to serve but it's too long
14 and they'll give us reasons. In the vast majority
15 of cases, they're perfectly legitimate and I just
16 excuse them. Others, have come or some further
17 investigation is done. And we tell me what the
18 terms a conditions are, we tell them there will be
19 Fridays off.

:14AM

:15AM

20 But more importantly than that is the
21 questions you want to put on the questionnaires, and
22 with few exceptions I follow the lawyers' lead,
23 because you are the ones who are going to have to
24 make a determination of peremptory challenges, and
25 that's basically why you need the data for.

:15AM

1 I will also address at a later date the
2 question of how many peremptory challenges there
3 will be, but we'll deal with that in due course.

4 Do we have another general status set for us?

5 MR. SCHAR: We do not, Judge.

6 THE COURT: I'm thinking July 16th -- well, I
7 don't want to really do that --

8 MR. SCHAR: Judge, we could go a week after
9 that.

10 THE COURT: July 23rd?

11 MR. SCHAR: Very good, Judge.

12 THE COURT: Fine.

13 MR. SOROSKY: Could we make that the 22nd?
14 Is that possible?

15 THE COURT: Absolutely. 22nd is fine.

16 Time will be excluded in the interest of
17 justice for the obvious purpose of allowing the
18 defense to prepare.

19 MR. ETtinger: At 11:00, Judge?

20 THE COURT: What was the question?

21 MR. ETtinger: At 11:00 o'clock, Judge?

22 THE COURT: 11:00 o'clock.

23 MR. SCHAR: Judge, one final issue from the
24 government. We have continued to work through the
25 issue of the Friends of Blagojevich money. I think

1 a significant sum has actually been provided to the
2 Clerk's Office. The Clerk's Office had asked at
3 some point, and not asking leave now, for Your Honor
4 to amend the order specifically to allow for
5 interest bearing accounts for this money to be put
6 in. I believe, if I have not already submitted one,
7 I will submit just a change to the order that allows
8 that. The Clerk's Office has asked that we provide
9 that to them.

10 THE COURT: Yeah, that is right. That is
11 right, interest bearing accounts.

12 Anything else?

13 MR. SOROSKY: There are a few other remedial
14 matters -- or four other. First, if the Court would
15 consider adopting some regular schedule so that all
16 of the attorneys could be paid with some
17 consistency. We'll file an ex parte motion
18 requesting that, but we just wanted to let Your
19 Honor know, that's one thing.

20 THE COURT: I'd be happy to establish a
21 regular schedule. And obviously the persons who
22 have the principal interest in that are the defense
23 lawyers, the government is much more likely to be
24 available at specified time. So you can submit
25 something to me and if the intervals are not too

1 long, I'll give it to you.

2 MR. SOROSKY: Thank you.

3 Another motion we will be filing ex parte is,
4 there are certain sophisticated forms of equipment
5 that the defense is going to need to adequately
6 prepare for trial. I mean, generically, it probably
7 would be considered computer equipment, if I could
8 use that phrase, and we just want to inform the
9 court and the government we will be filing that ex
10 parte.

11 MR. SCHAR: Judge, just on that issue,
12 obviously, if Your Honor grants the order, we're not
13 going to object, but it's my understanding that the
14 CJA money, which would be the FOB money as the
15 equivalent, should not to be used as simply outfit
16 defendants with new computers and everything else,
17 or at least if that's going to be provided, I assume
18 on an interim basis with the equipment to be
19 returned so that we're not actually using money so
20 they can update their offices.

21 MR. SOROSKY: Absolutely. We have no problem
22 with that.

23 THE COURT: If you're dealing with
24 particularly sophisticated equipment, usually you
25 can lease it because people don't use it that often

1 and it's usually leased. And if it's not leased, we
2 can do something else.

3 MR. SCHAR: All right.

4 THE COURT: I don't think you're going to get
5 a quarrel over that one.

6 MR. SOROSKY: Third thing is, there is
7 certain equipment presently in the Friends of
8 Blagojevich office, and I don't think it's
9 supersophisticated equipment but it is equipment,
10 such as some photocopy machines and that type of
11 thing. I was wondering if the defense could avail
12 itself of that equipment, since it's already there,
13 if necessary, and of course --

14 THE COURT: I would be unlikely to frown on
15 that one.

16 MR. SOROSKY: You would be?

17 THE COURT: Unlikely to frown.

18 MR. SOROSKY: Okay. Very good. Very good.

19 MR. ADAM: He said yes.

20 THE COURT: well, double negative is a
21 positive, is that correct, Mr. Adam?

22 MR. ADAM: That's correct.

23 MR. SOROSKY: And the fourth thing is, on the
24 last court date Your Honor wanted all, I think the
25 term you used, is younger lawyers, and they are all

1 here if the Court wants to meet them.

2 THE COURT: Why don't you have them come up
3 and state their names for the record.

4 MR. SOROSKY: Okay.

:20AM

5 MR. SCHAR: Judge, when they do that, they
6 we're here, can they represent to the Court that
7 they've been provided a copy of the protective order
8 and they read it and they understand the terms of
9 the protective order?

:21AM

10 THE COURT: Sure.

11 MR. SOROSKY: Everyone step up and state your
12 names to the Judge.

13 MR. SAULTER: Good morning, Your Honor.

:21AM

14 Keenan Saulter, I have read and analyzed the
15 protective order.

16 THE COURT: Would you spell your name?

17 MR. SAULTER: Yes, S as in Sam a-u-l-t-e-r.

18 MS. MOLARO: Robyn Molaro, M-o-l-a-r-o, and I
19 have read and I understand the protective order.

:21AM

20 MR. GOLDSTEIN: Good morning, Your Honor.

21 Aaron Goldstein, G-o-l-d-s-t-e-i-n, I've read
22 the protective order and I understand it.

23 MR. DI NATALE: Good morning, Your Honor.

:21AM

24 Michael DiNatale, DiNatale, and I have read
25 and do understand the protective order.

1 MR. RIEBMAN: Good morning, Your Honor.

2 Elliott Riebman, R-i-e-b-m-a-n, and I've read
3 and I understand the protective order.

4 MR. WALKER: Good morning, Your Honor.

:21AM

5 Robert walker, w-a-l-k-e-r, I have read and do
6 understand the protective order.

7 THE COURT: You can come back, Mr. Sorosky.

8 (Brief pause.)

9 MR. SOROSKY: Mr. Gillespie has told me he

:22AM

10 would up give all his fame and fortune to be able to
11 be able to be one of those younger lawyers.

12 MR. GILLESPIE: I sure would.

13 THE COURT: Anything else?

14 MR. SOROSKY: That's it, Your Honor.

:22AM

15 MR. SCHAR: No, Judge.

16 THE COURT: Thank you, counsel.

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18 (Which concluded the proceedings had on this
19 date in the above entitled cause.)

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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT
FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED
MATTER

/s/Blanca I. Lara

date

Blanca I. Lara

Date